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Paper No. 7

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AUG 26 2002

OFFICE OF PETITIONS

In re Application of
Sang-Young Kim et al.
Application No. 10/038,299
Filed: January 4, 2002
Attorney Docket No. SAM-0250

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION UNDER
: 37 CFR 1.47(a) MOOT

Papers filed on July 1, 2002 (certificate of mail date June 25, 2002), in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on April 26, 2002, included a Declaration signed by the previously nonsigning inventor, Sang-Young Kim.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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Paper No. 4

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APR 26 2002

OFFICE OF PETITIONS

In re Application of
Sang-Young Kim et al.
Application No. 10/038,299
Filed: January 4, 2002
Attorney Docket No. SAM-0250

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on January 4, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on January 4, 2002, with a declaration naming Sang-Young Kim and Pil-Jae Jun as joint inventors and signed by inventor Pil- Jae Jun only. The present petition was also filed on January 4, 2002.

Petitioners state that they have been unable to locate Sang-Young Kim, that they have attempted to contact him by E-mail and by telephone, and that they mailed a copy of the application papers to the last known address. Petitioners further assert that the correspondence mailed to Mr. Kim was returned as address unknown.

A grantable petition under 37 CFR 1.47(a) requires:

- (1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee;
- (4) a surcharge of \$130 or \$65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
- (5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regard to item (1), the showing of record, a single mailing and single E-mail message, is not sufficient to show that diligent efforts were made to contact the non-signing inventor. Petitioners should attempt to determine the non-signing inventors current address through e-mail, national registry, or other types of searches. If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that the non-signing inventor cannot be reached.

While details of the efforts made to locate the non-signing inventor have been set forth in affidavits made by Ms. Eun-Jung Uhm and Ms. Jae-Sook Kim, petitioners should submit a copy of the envelope showing that the application sent to the last known address of the non-signing inventor was returned as undeliverable by the post office.

Additionally, as a copy of the application papers (specification, including claims, drawings, if any, and the declaration) must be sent to the non-signing inventor, petitioners should explain what papers were actually sent to the non-signing inventor.

In the event that the non-signing inventor refuses to sign the declaration, petitioners must present proof thereof. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at 703-305-4497.



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